THE HONOURABLE SRI JUSTICE

ELIPE DHARMA RAO

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WRIT PETITION No.16077 OF 2005

O R D E R :

This writ petition is filed seeking to declare the action of the respondents in trying to construct the shops in the Mandal Praja Parishad area of Bhimgal without providing for vegetable market as arbitrary, illegal and contrary to public policy and direct the respondents to earmark and hand over the area in the Mandal Praja Parishad, Bhimgal for vegetable market.

It is submitted is that Bhimgal Gram Panchayat is a major Gram Panchayat. The first petitioner has been elected as Sarpanch of Bhimgal Gram Panchayat, whereas the second is a resident of Bhimgal village and participating in various welfare activities of the said village. The Bhimgal Mandal Praja Parishad Office is located in Abadi in Bhimgal village and there is a vast extent of land in the Office of Mandal Praja Parishad, which can be used for public purpose.

The learned counsel for the petitioners submits that the first respondent constructed about 24 shops along the road and gave them to the vendors who had already been doing business along the compound wall of Mandal Praja Parishad by constructing small sheds for the past more than 40 years and they were accommodated in the mulgies constructed by Mandal Praja Parishad on payment of deposit of Rs.50,000-

00 in the year 2002 and the monthly rent was fixed at Rs.600/-.

The learned counsel for the petitioners seek to contend that the vegetable vendors of Bhimgal village and neighbouring village of Bhimgal Mandal conduct their business on road only. Therefore, the Gram Panchayat as well as Mandal Praja Parishad have resolved that certain area on the road side of Mandal Parishad be earmarked for vegetable vending, as it is for a public purpose, which serves the people of Mandal as a whole. To ease congestion and to prevent accidents on the road, it has been resolved by the Gram Panchayat that certain area along the road side of Mandal Praja Parishad on the western side be ear-marked for vegetable market.

The learned counsel for the petitioners further seek to contend that in pursuance of the resolution of Gram Panchayat, the Mandal Praja Parishad addressed a letter dated 02-9-2004 to all the respondents including Gram Panchayat that permission is being sought for ear marking certain area along with the western side of Mandal Praja Parishad for vegetable market on the southern side of Mandal Praja Parishad Office area. The villagers have been jubilant as appropriate steps are being taken by all the officers concerned for locating the vegetable market, as there was any amount of difficulty being faced by the vegetable vendors.

While things stood thus, contrary to various steps being taken for ear marking the area on the western side for vegetable market, the respondents in an arbitrary manner started construction of shops on the said western side, which was to be handed over to the vegetable market. The Gram Panchayat therefore made a

detailed representation to all the authorities that in the area ear market for vegetable market, shops are being constructed. The entire action of the first respondent is arbitrary and only to favour certain individuals from whom monies were collected for allotment of shops. Further the action of the first respondent in trying to allot shops for individuals on nomination basis and allotting the shops without calling for applications putting the same for tenders to secure the highest price for the shops is arbitrary, illegal and violative of Article 14 of the Constitution of India and amounts to distribution of State largesse in an arbitrary manner.

Now the post-haste action of the first respondent in trying to construct the market and deprive the vegetable vendors of their market is only to favour the persons from whom monies were collected for the purpose of giving shops on nomination basis without calling for tenders. Even other wise, the shops can be constructed by private individuals who can do it for business. The public place and purpose can only be achieved by ear marking the place in Mandal Praja Parishad for vegetable market. The first respondent is trying to make the construction without even calling for tenders for the said work. The entire action of the first respondent is biased. If the construction is permitted, the area of vegetable market will be lost. Therefore, the petitioners filed the present writ petition.

When the matter came up ‘for admission’ the learned Govt.Pleader on instructions submits that a resolution is passed for establishment of a vegetable market in the premises of Mandal Praja Parishad Office and to that effect they have requested the Government to sanction the same. Immediately after obtaining sanction orders, the respondents are going to establish vegetable market in the premises of Mandal

Praja Parishad. Now the grievance of the petitioner that the area earmarked for the vegetable market and in that place they are constructing shops is not correct.

Recording the above submission made by the learned Govt.Pleader for the respondents 1 to 3, they have already allotted the land for establishment of vegetable market and orders are awaited from the Government with regard to the said proposal. In those circumstances, I see no reason to entertain the writ petition.

The writ petition is accordingly dismissed. No costs.

JULY 25th, 2005. ----------

ISL. ELIPE DHARMA RAO, J.